

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

EDWARD M. HAMPTON,)	
)	
Plaintiff,)	
)	
v.)	No. 2:20-cv-00440-JPH-DLP
)	
VANVLEET,)	
CARPENTER,)	
KEVIN GILMORE,)	
KOURTNEY ABBOTT,)	
PAM ARNEY,)	
)	
Defendants.)	

ORDER DENYING MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

Edward Hampton, a prisoner at Wabash Valley Correction Facility, seeks leave to proceed with this action without prepaying the filing fee. Dkt. 2. However, Mr. Hampton is ineligible to proceed *in forma pauperis* because he has accumulated three "strikes" under the Prison Litigation Reform Act. 28 U.S.C. § 1915(g). The Court has notified Mr. Hampton of his three strikes:

Plaintiff is a "three-strike" individual, who because he has filed three or more lawsuits that have been dismissed for failure to state a claim, being frivolous, or malicious, is ineligible to proceed *in forma pauperis*. 28 U.S.C. § 1915(g). Three such cases are (1) *Hampton v. Hinton*, No. 1:16-006-SEB-DKL (S.D. Ind. Jan. 25, 2016) (dismissed for failure to state a claim); (2) *Hampton v. Ind. Dep't Corr.*, No. 1:15-cv-1966-JMS-MJD (S.D. Ind. Dec. 31, 2015) (dismissed for failure to state a claim); and (3) *Hampton v. [Stansbury]*, No. 1:16-cv-156-SEB-MJD ([S.D.] Ind. May 19, 2016) (dismissed for failure to state a claim).

Hampton v. Cnty. of Allen, et al., No. 1:17-cv-00924-JMS-MJD, dkt. 6 (S.D. Ind. Mar. 29, 2017).

In his complaint, Mr. Hampton alleges that on August 3, 2020, he requested to be placed in protective custody due to threats against him by the "Folks" nation members, specifically that he had been extorted and robbed of his property at knifepoint. Dkt. 1 at 5-6; dkt. 6 at 3. Mr. Hampton alleges that his new counselor told him that Internal Affairs might force him back into

general population at any time, and if he is put in general population, he will be assaulted or killed by gang members or be forced to assault another inmate for his own protection. Dkt. 1 at 6-7. Mr. Hampton filed a brief in support of his complaint on September 14, 2020, in which he continues to argue that he was wrongfully removed from a substance abuse program, did not receive time cuts, and was retaliated against for seeking to file a tort claim. None of these claims suffice to show that Mr. Hampton meets the imminent danger exception to be eligible for *in forma pauperis* status. Dkt. 6. Moreover, based upon his filings, Mr. Hampton is currently in protective custody. Dkt. 1 at 6. Mr. Hampton's contemplation of future events that he "could be forced back into general population at any moment" causing him fear for his safety does not establish that he is in "imminent danger." Dkt. 6 at 14.

To meet the imminent danger requirement of 28 U.S.C. § 1915(g), the "threat or prison condition [must be] real and proximate." *Ciarpaglini v. Saini*, 352 F.3d 328, 330 (7th Cir. 2003) (internal quotation omitted). Vague and conclusory assertions are not enough. *Id.* "Allegations of past harm do not suffice; the harm must be imminent or occurring at the time the complaint is filed." *Id.* "If fears about the future made for an 'imminent danger of serious physical injury', the statute would not serve to curtail litigation by those who have demonstrated a propensity to make baseless or malicious claims." *Sanders v. Melvin*, 873 F.3d 957, 960 (7th Cir. 2017).

The Court concludes that there is no basis to allow Mr. Hampton to proceed *in forma pauperis*. Therefore, Mr. Hampton's motion, dkt. [2], is **denied**. Mr. Hampton shall have through **November 13, 2020** to pay the \$400 filing fee to the clerk of the district court or **show cause as to how he meets the imminent danger exception**. Mr. Hampton's show cause response shall be limited to **only those circumstances** that are placing him in imminent danger of serious bodily

injury. The failure to pay the filing fee or show cause regarding plausible claims of imminent danger by this deadline will result in the dismissal of this action without further notice.

SO ORDERED.

Date: 10/20/2020

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

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